

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLANDBILL NO. 90-26Introduced by Council Member FielderLegislative Day No. 90-15 Date May 15, 1990

AN ACT to add New Chapter 60, Agriculture, to the Harford County Code, as amended; to establish a supplemental payment program for landowners who sell certain easements on agricultural land; to establish guidelines, procedures, duties, and responsibilities for the program; to require the Department of Planning and Zoning to adopt certain regulations in connection with the program; to allow withdrawals, partial releases, and exclusions from the program under certain conditions; to define certain terms; and generally relating to a supplemental payment program for landowners who sell certain easements on agricultural land.

By the Council, May 15, 1990

Introduced, read first time, ordered posted and public hearing scheduled
on: June 19, 1990
at: 7:00 P.M.

By Order: Doris Poulsen, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on June 19, 1990, and concluded on, June 19, 1990

Doris Poulsen, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

1 WHEREAS, As a result of the state agricultural land
2 preservation program, in which the county began participating in
3 1979, approximately 13,000 acres of farmland in the county are now
4 in agricultural districts, and are therefore preserved temporarily
5 in their undeveloped state; and

6 WHEREAS, the program has also resulted in the purchase of
7 development rights for approximately 3,400 acres of agricultural
8 land in the county, thus permanently preserving that acreage in an
9 undeveloped state; and

10 WHEREAS, The County Council is of the opinion that many owners
11 with land in agricultural preservation districts have refrained
12 from selling their development rights to the state because the
13 state program significantly underestimates the value of development
14 rights and offers purchase prices that are far below actual market
15 value; and

16 WHEREAS, The Council believes that a county program of
17 supplemental payments to landowners who sell their development
18 rights to the state would markedly increase the number of
19 landowners willing to sell those rights under the state program;
20 and

21 WHEREAS, The Council further believes that an ideal
22 supplemental payment program would offer landowners a range of
23 payment schedules with the actual payment schedule and terms
24 subject to negotiation between each landowner and the county, and
25 in light of this belief has not required any particular payment
26 schedule or payment terms in this legislation; and

27 WHEREAS, Although the Council cannot require that a program

1 be funded in a particular manner, it believes that an ideal
2 supplemental payment program would utilize innovative financing
3 methods, including the issuance of county bonds to landowners as
4 payment for development rights; and

5 WHEREAS, The Council believes that continued and expanded
6 participation in the state agricultural land preservation program
7 would enhance the standard of living in Harford County, and is in
8 the best interests of the county's citizens.

9 NOW, THEREFORE,

10 Section 1. Be It Enacted By The County Council of Harford
11 County, Maryland, that new Chapter 60, Agriculture, be, and it is
12 hereby, added to the Harford County Code, as amended, to read as
13 follows:

14 CHAPTER 60. AGRICULTURE.

15 ARTICLE I. AGRICULTURAL LAND PRESERVATION.

16 SECTION 60-1. DEFINITIONS.

17 A. IN THIS ARTICLE, THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 B. "APPLICANT" MEANS AN OWNER WHO APPLIES TO SELL AN
20 EASEMENT TO THE FOUNDATION.

21 C. "DEPARTMENT" MEANS THE DEPARTMENT OF PLANNING AND ZONING.

22 D. "EASEMENT" MEANS AN ENCUMBRANCE ON LAND WHICH RESTRICTS
23 THE OWNER'S RIGHTS TO DEVELOP OR OTHERWISE USE THE LAND FOR OTHER
24 THAN AN AGRICULTURAL USE.

25 E. "FOUNDATION" MEANS THE MARYLAND AGRICULTURAL LAND
26 PRESERVATION FOUNDATION.

1 F. "OWNER" MEANS A PERSON WITH LEGAL TITLE TO A PARCEL OF
2 LAND. "OWNER" INCLUDES A SUCCESSOR IN INTEREST.

3 G. "PROGRAM" MEANS THE SUPPLEMENTAL PAYMENT PROGRAM
4 ESTABLISHED BY THIS ARTICLE.

5 SECTION 60-2. ESTABLISHMENT.

6 THERE IS A COUNTY SUPPLEMENTAL PAYMENT PROGRAM FOR OWNERS WHO
7 SELL EASEMENTS TO THE FOUNDATION.

8 SECTION 60-3. REGULATIONS.

9 A. THE DEPARTMENT SHALL ADOPT REGULATIONS THAT ESTABLISH:

10 (1) AN EVALUATION SYSTEM TO RATE FEATURES OF AN
11 APPLICANT'S LAND THAT ARE RELEVANT TO THE LAND'S AGRICULTURAL AND
12 DEVELOPMENT VALUES; AND

13 (2) A FORMULA, BASED ON THE EVALUATION SYSTEM, THAT
14 DETERMINES THE AMOUNT OF THE SUPPLEMENTAL PAYMENT TO BE MADE TO THE
15 APPLICANT UNDER THE PROGRAM.

16 B. AT A MINIMUM, THE FEATURES RATED UNDER THE EVALUATION
17 SYSTEM SHALL INCLUDE:

18 (1) THE SIZE OF THE PARCEL OF LAND;

19 (2) THE LOCATION OF THE LAND;

20 (3) THE SOIL QUALITY OF THE LAND; AND

21 (4) THE ROAD FRONTAGE OF THE LAND.

22 SECTION 60-4. PROCEDURE; PAYMENT.

23 A. UNLESS THE OWNER GIVES WRITTEN NOTICE TO THE DEPARTMENT
24 THAT THE OWNER DOES NOT WISH TO PARTICIPATE IN THE PROGRAM, AN
25 OWNER'S APPLICATION TO SELL AN EASEMENT TO THE FOUNDATION
26 CONSTITUTES AN APPLICATION TO PARTICIPATE IN THE PROGRAM.

1 B. NOT LATER THAN 45 CALENDAR DAYS AFTER AN APPLICANT
2 RECEIVES AN OFFER FROM THE FOUNDATION TO PURCHASE AN EASEMENT, THE
3 DEPARTMENT SHALL GIVE THE APPLICANT WRITTEN NOTIFICATION OF THE
4 AMOUNT OF THE SUPPLEMENTAL PAYMENT TO BE MADE TO THE APPLICANT.

5 C. IF THE APPLICANT SELLS AN EASEMENT TO THE FOUNDATION, AND
6 IF FUNDS FOR THE PROGRAM ARE AVAILABLE, THE COUNTY SHALL PAY THE
7 APPLICANT THE AMOUNT OF THE SUPPLEMENTAL PAYMENT AS DETERMINED BY
8 THE REGULATIONS ADOPTED UNDER THIS ARTICLE. ACCEPTANCE OF THE
9 SUPPLEMENTAL PAYMENT CONSTITUTES SALE BY THE APPLICANT OF AN
10 EASEMENT TO THE COUNTY, SUBORDINATE TO THE EASEMENT HELD BY THE
11 FOUNDATION.

12 D. AT THE TIME OF SETTLEMENT OF A PAYMENT UNDER THE PROGRAM,
13 THE OWNER AND THE COUNTY MAY AGREE ON EITHER A LUMP SUM PAYMENT OR
14 A SCHEDULE OF PAYMENTS OVER A PERIOD OF UP TO 10 YEARS.

15 E. IF A SCHEDULE OF PAYMENTS IS AGREED UPON, THE TREASURER
16 SHALL RETAIN IN A SEPARATE ACCOUNT AN AMOUNT SUFFICIENT TO PAY THE
17 OWNER ACCORDING TO THE SCHEDULE.

18 SECTION 60-5. RECORDATION.

19 THE COUNTY SHALL RECORD AN EASEMENT, AT COUNTY EXPENSE, ON
20 LAND FOR WHICH PAYMENT IS MADE UNDER THE PROGRAM.

21 SECTION 60-6. WITHDRAWAL FROM PROGRAM.

22 A. AN OWNER WHO HAS RECEIVED PAYMENT UNDER THE PROGRAM AND
23 WHO HAS REQUESTED THAT THE FOUNDATION APPROVE TERMINATION OF AN
24 EASEMENT SHALL FILE A COPY OF THE REQUEST WITH THE DEPARTMENT.

25 B. APPROVAL BY THE COUNTY COUNCIL OF A REQUEST TO TERMINATE
26 AN EASEMENT UNDER THE AGRICULTURE ARTICLE, SECTION 2-514 OF THE

1 ANNOTATED CODE OF MARYLAND, CONSTITUTES APPROVAL TO WITHDRAW FROM
2 THE PROGRAM.

3 C. IF WITHDRAWAL FROM THE PROGRAM IS APPROVED, THE OWNER
4 SHALL REPURCHASE THE EASEMENT FROM THE COUNTY BY PAYING AN AMOUNT
5 EQUAL TO THE TOTAL PAYMENT THE OWNER RECEIVED UNDER THE PROGRAM,
6 PLUS INTEREST. THE INTEREST RATE USED TO CALCULATE THE AMOUNT OF
7 INTEREST SHALL BE THE SAME AS THE CURRENT REDEMPTION RATE
8 ESTABLISHED BY OR UNDER THE AUTHORITY OF THE TAX-PROPERTY ARTICLE,
9 SECTION 14-280 OF THE ANNOTATED CODE OF MARYLAND.

10 E. UPON REPURCHASE OF THE EASEMENT BY THE OWNER, THE COUNTY
11 SHALL RECONVEY AND RELEASE ITS EASEMENT TO THE OWNER.

12 SECTION 60-7. PARTIAL RELEASE OF OR EXCLUSION FROM THE EASEMENT.

13 AN OWNER WHO RECEIVES A PARTIAL RELEASE OF OR EXCLUSION FROM
14 AN EASEMENT UNDER THE AGRICULTURE ARTICLE, SECTION 2-513 OF THE
15 ANNOTATED CODE OF MARYLAND, MAY RECEIVE A PARTIAL RELEASE OF OR
16 EXCLUSION FROM THE COUNTY'S EASEMENT ON THE SAME LAND, TO THE SAME
17 EXTENT AS THE RELEASE OR EXCLUSION FROM THE FOUNDATION, UPON
18 PAYMENT TO THE COUNTY FOR THE PORTION RELEASED OR EXCLUDED AT THE
19 PRICE PER ACRE THAT THE COUNTY PAID UNDER THE PROGRAM FOR THE
20 EASEMENT.

21 Section 2. And Be It Further Enacted, That this Act shall take
22 effect 60 calendar days from the date it becomes law.

23 EFFECTIVE: August 31, 1990
24

25 The Secretary of the Council does hereby
26 certify that fifteen (15) copies of this Bill
are immediately available for distribution to
the public and the press.

Doris Poulsen, Secretary

BY THE COUNCIL

BILL NO. 90-26

Read the third time.

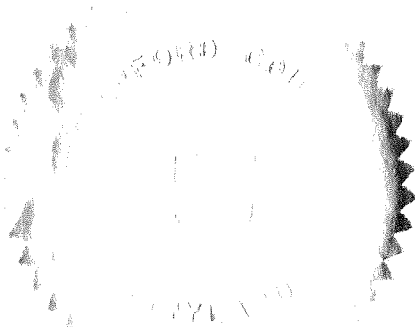
Passed: LSD 90-21 (June 19, 1990)

Failed of Passage: _____

By Order

Doris Poulsen, Secretary

Sealed with the County Seal and presented to the County Executive
for his approval this 20th day of June, 1990
at 3:00 o'clock P.M.

Doris Poulsen, Secretary

BY THE EXECUTIVE

APPROVED:

COUNTY EXECUTIVE

Date 7-2-90

BY THE COUNCIL

This Bill, (No. 90-26), having been approved by the Executive
and returned to the Council, becomes law on July 2, 1990.

Doris Poulsen Secretary

EFFECTIVE DATE: August 31, 1990